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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

GARY FLORES,

Plaintiff,

v.

STANDARD INSURANCE COMPANY,  
an Oregon corporation; and DOES 1-30  
inclusive.

Defendant.

Case No. 3:09-cv-00501-LRH-RAM

**PROTECTIVE ORDER**

To expedite the flow of discovery material, facilitate the prompt resolution of disputes over confidentiality, adequately protect material claimed by the parties to be confidential, and ensure that protection is afforded only to material so designated, pursuant to the Court's authority under Fed. R. Civ. P. 26(c), it is hereby ORDERED:

1. "Confidential" Documents. This order shall govern all documents produced or exchanged subsequent to the entry of this Order that are stamped or otherwise marked with the legend "CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER."

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1           2.     Scope of "Confidential" Designation.     The special treatment accorded to  
2 documents designated "Confidential" under this Order shall reach:

- 3                 a)     All documents previously or hereafter designated "Confidential";
- 4                 b)     All copies, extracts, and complete or partial summaries prepared from such  
5 documents;
- 6                 c)     Any deposition transcript or exhibit, or portion thereof, that discusses or  
7 refers to such documents, copies, extracts or summaries; and
- 8                 d)     Any portion of any discovery answer or response, affidavit, declaration,  
9 brief, or other paper filed with the Court, or exhibit thereto, that discusses or refers to such  
10 documents, copies, extracts or summaries.

11           3.     Permissible Disclosure of "Confidential" Documents.     Except with prior written  
12 consent of all parties and nonparties asserting confidential treatment, and except as provided  
13 elsewhere in this Order, documents designated "Confidential," and all information contained  
14 therein or derived therefrom, may not be disclosed to any person other than:

- 15                 a)     The parties to this action;
- 16                 b)     Counsel of record for the parties in this action;
- 17                 c)     Secretaries, paralegal assistants, and other employees of such counsel who  
18 are assisting in the prosecution and/or defense of this action;
- 19                 d)     Actual or potential deposition or trial witnesses in this action, to the extent  
20 reasonably necessary to prepare the witness to testify concerning this case. In no event, however,  
21 shall disclosure be made under this subparagraph to any witness who is or has been employed by  
22 or associated with any competitor or customer of the defendants unless the "Confidential"  
23 documents in question were written by, seen by or copied to said witness.
- 24                 e)     Outside consultants and experts solely retained for the purpose of assisting  
25 counsel and the parties in the prosecution and/or defense of this action;

26     . . .

1           f)     Any person designated by the Court in the interests of justice, upon such  
2 terms as the Court may deem proper; and

3           g)     This Order shall not be construed in any manner to preclude free access by  
4 any individual to any hearing, trial or any other matter heard in open court. Neither will this  
5 Order be construed as a waiver of any objection or argument concerning the presence of anyone  
6 at a hearing, trial or other matter heard in open court.

7           “Disclosure” is intended to be interpreted broadly, and means copying (including  
8 handwritten copies), exhibiting, showing, communicating, describing, allowing access to, or  
9 otherwise releasing to any person the documents subject to this Order or any of these documents’  
10 content, except as expressly authorized by this Order.

11          4.     Review of Party’s Own “Confidential” Documents. The restrictions of this Order  
12 shall not apply to parties or nonparties, and their employees, attorneys, experts or other authorized  
13 agents, when reviewing their own “Confidential” documents.

14          5.     Certification of Compliance. Except for persons identified in subparagraphs 3(a)-  
15 (c) above, no person authorized under the terms of this Order to receive access to “Confidential”  
16 documents shall be granted access to them until such person has read this Order and agreed in  
17 writing to be bound by it. Such written agreement must contain (a) a recital that the signatory has  
18 read and understands this Order; (b) a recital that the signatory understands that unauthorized  
19 disclosures of the “Confidential” documents constitute contempt of this Court; and (c) a statement  
20 that the signatory consents to the exercise of personal jurisdiction by this Court. Upon order of  
21 this Court, for good cause shown, these written agreements shall be available for inspection by  
22 counsel for other parties or nonparties, but the provision regarding disclosure to opposing counsel  
23 shall not apply to those described in subparagraph 3(e) who will not testify until the conclusion of  
24 this litigation.

25          6.     Responsibility of Attorneys. The attorneys of record are responsible for  
26 employing reasonable measures, consistent with this Order, to control duplication of, access to,

1 preservation of, and distribution of copies of "Confidential" documents. It shall be the obligation  
2 of counsel, upon hearing of any breach or threatened breach of this Order by any person,  
3 promptly to notify counsel for the opposing and producing parties of such breach or threatened  
4 breach.

5 7. Use of "Confidential" Documents at Depositions. A deponent may, during the  
6 deposition, be shown and examined about "Confidential" documents if the deponent is or was an  
7 employee of the party producing such document, or if the provisions of paragraph 5 are met. Any  
8 "Confidential" documents marked as deposition exhibits shall be sealed separately from the  
9 remainder of the deposition transcript and exhibits. When a party uses or refers to "Confidential"  
10 documents or information at a deposition, the portion of the deposition transcript that relates to  
11 such documents or information shall be stamped "Confidential" and sealed separately from the  
12 remainder of the transcript, and shall be treated as "Confidential" under the provisions of this  
13 Order.

14 8. Designating Portions of Deposition Transcripts "Confidential." Any party or  
15 nonparty may, within 15 calendar days after receiving a deposition transcript, designate portions  
16 of the transcript, or exhibits thereto, as being "Confidential." At deposition, the parties will  
17 attempt in good faith to preliminarily identify and designate "Confidential" testimony and  
18 exhibits without prejudice to their right to so designate other testimony or exhibits or withdraw  
19 such designation after receipt of the transcript. Confidential deposition testimony or exhibits may  
20 be so designated by stamping the exhibits "Confidential," or by underlining the portions of the  
21 pages that are confidential and stamping such pages "Confidential." Until expiration of the 15  
22 calendar day period, the entire deposition transcript, and all exhibits thereto, will be treated as  
23 "Confidential" under the provisions of this Order. If no party or nonparty timely designates  
24 testimony or exhibits from a deposition as being "Confidential," none of the deposition testimony  
25 or exhibits will be treated as confidential. If a timely "Confidential" designation is made, the  
26 confidential portions and exhibits shall be sealed separately from the portions and exhibits not so

1 marked, and shall be treated as "Confidential" under the provisions of this Order.

2 9. No party or non-party shall file or submit for filing as part of the court record any  
3 documents under seal without first obtaining leave of court. Notwithstanding any agreement  
4 among the parties, the party seeking to file a paper under seal bears the burden of overcoming the  
5 presumption in favor of public access to papers filed in court. Any party or non-party seeking to  
6 file or submit any "Confidential" document as part of the court record shall make a good faith  
7 effort to obtain leave to file the document under seal, and shall afford all other parties sufficient  
8 notice to permit them to be heard on the question of whether the document shall be sealed.

9 a) If the Court grants a party leave to file or submit a filing under seal, the  
10 parties agree to send full and complete copies of the sealed filing, with all exhibits, electronically  
11 as soon as reasonably possible to the other party, as well as mailing, via first class mail or  
12 comparable means, a paper copy of the entire filing, including exhibits.

13 10. Use of "Confidential" Documents in Court. Documents designated  
14 "Confidential," and all information contained therein or derived therefrom, may be used or  
15 offered in evidence at the trial of this case, or at any court hearing in this litigation, provided that:

16 a) Sufficient advance notice is given to permit the designating party or  
17 nonparty to seek additional protections or relief from the Court if desired; and

18 b) The "Confidential" documents and information, and any portion of any  
19 transcript or court paper where they are discussed or referred to, are stamped "Confidential" and  
20 separately filed under seal with the Clerk of Court.

21 11. Litigation Use Only. All "Confidential" documents produced in this litigation,  
22 whether by a party or nonparty, and whether pursuant to Federal Civil Rule 34, subpoena,  
23 agreement, or otherwise, and all information contained therein or derived therefrom, shall be used  
24 solely for the preparation and trial of this action (including any appeals and retrials), and may not  
25 be used for any other purpose, including business, governmental or commercial, or any other  
26 administrative or judicial proceedings or actions.

1           12.     Declassification. Any party may apply to the Court for a ruling that a document  
2 (or category of documents) stamped "Confidential" is not entitled to such status and protection.  
3 The party that designated the document as "Confidential" shall be given notice of the application  
4 and an opportunity to respond. To maintain confidential status, the proponent of confidentiality  
5 must show by a preponderance of the evidence that there is good cause for the document to have  
6 such protection.

7           13.     Non Termination and Return of Documents. The provisions of this Order shall  
8 continue to apply to all "Confidential" documents and information after this action has been  
9 terminated. Upon termination of this action, including all appeals, the parties shall return all  
10 "Confidential" documents to the producing party, as well as all copies, extracts and summaries  
11 thereof, except that counsel for each party may maintain in its files one copy of each pleading or  
12 other paper filed with the Court. "Confidential" documents that are subsequently marked with  
13 attorney work product (e.g., notes of counsel) shall be destroyed by the party claiming the work-  
14 product privilege. The destroying party shall provide a declaration that the documents containing  
15 attorney work-product have been destroyed. Alternatively, the parties and/or any producing party  
16 may agree upon appropriate methods of destruction.

17           14.     Subpoena By Other Courts Or Agencies. If another court or an administrative  
18 agency subpoenas or orders production of "Confidential" documents that a party has obtained  
19 under the terms of this Order, such party shall promptly notify the party who designated the  
20 document as confidential of the service of such subpoena or order, and provide that party with  
21 sufficient time in which to object.

22           15.     No Admissions. Nothing contained in this Order, nor any action taken in  
23 compliance with it, shall:

24                   a)     Operate as an admission by any party that any particular document or  
25 information is, or is not, confidential;  
26



b) Operate as an admission by any party that any particular document is, or is not, subject to discovery or admissible in evidence at the trial of this action.

16. Interim Protection. “Confidential” documents produced by any party or nonparty through discovery in this action prior to the entry of this Order by the Court shall be subject to the provisions of this Order to the same extent as if the Order had been entered by the Court, unless the Court otherwise directs.

DATED this 12th day of February, 2010

U.S. MAGISTRATE JUDGE

Respectfully submitted by:

/s/Anthony R. Ager

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